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Attorney for Defendant NCO Financial Systems, Inc.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

SENNIE ROSE, an individual,

Plaintiff,

v.

NCO FINANCIAL SYSTEMS, INC., a limited
partnership, and DOES 1 through 10,

Defendants.

NO. 2:14-CV-00518-RAJ

DEFENDANT NCO FINANCIAL
SYSTEMS, INC.'S ANSWER TO
PLAINTIFF'S COMPLAINT

DEFENDANT, NCO FINANCIAL SYSTEMS, INC.'S,

ANSWER TO PLAINTIFF'S COMPLAINT

Defendant, NCO Financial Systems, Inc. ("NCO"), appearing for itself and no others, hereby answers ("Answer") the Complaint ("Complaint") of Plaintiff Sennie Rose ("Plaintiff"), as follows:

INTRODUCTION

1. The allegations of ¶ 1 constitute legal conclusions and/or rhetoric for which no response is necessary. Insofar as such allegations are construed to pertain to alleged wrongdoing by NCO, or otherwise require a response, NCO denies those allegations.

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1 2. The allegations of ¶ 2 constitute legal conclusions and/or rhetoric for which no
2 response is necessary. Insofar as such allegations are construed to pertain to alleged wrongdoing
3 by NCO, or otherwise require a response, NCO denies those allegations.

4 3. The allegations of ¶ 3 constitute legal conclusions and/or rhetoric for which no
5 response is necessary. Insofar as such allegations are construed to pertain to alleged wrongdoing
6 by NCO, or otherwise require a response, NCO denies those allegations.

7 4. In response to ¶ 4 of the complaint, NCO admits plaintiff brings this action to
8 enjoin allegedly unlawful debt collection practices and to recover damages, but NCO denies any
9 wrongdoing or liability and denies Plaintiff is entitled to damages in any amount.

10 5. NCO denies the allegations contained in ¶ 5 for lack of sufficient information to
11 justify a reasonable belief therein.

11 **JURISDICTION AND VENUE**

12 6. NCO admits the allegations contained in ¶ 6 for jurisdictional purposes only.

13 7. NCO denies the allegations contained in ¶ 7.

14 8. NCO admits the allegations contained in ¶ 8 for jurisdictional purposes only.

15 9. NCO admits the allegations contained in ¶ 9 for venue purposes only.

15 **PARTIES**

16 10. NCO denies the allegations contained in ¶ 10 for lack of sufficient information to
17 justify a reasonable belief therein.

18 11. NCO admits the allegations contained in ¶ 11.

19 12. NCO admits the allegations contained in ¶ 12.

20 13. NCO admits the allegations contained in ¶ 13.

21 14. NCO admits only that when it operates as a debt collector as defined by 15 U.S.C.
22 § 1692a(6), its activities are regulated by the Fair Debt Collection Practices Act ("FDCPA").
Except as specifically admitted, NCO denies the allegations contained in ¶ 14.

1 15. NCO admits only that when it operates as a collection agency as defined by RCW
2 § 19.16.100(4), its activities are regulated by the Collection Agency Act ("CAA"). Except as
3 specifically admitted, NCO denies the allegations contained in ¶ 15.

4 16. NCO admits the allegations contained in ¶ 16.

5 **FACTUAL ALLEGATIONS**

6 17. NCO denies the allegations contained in ¶ 17 for lack of sufficient information to
7 justify a reasonable belief therein.

8 18. NCO denies the allegations contained in ¶ 18 for lack of sufficient information to
9 justify a reasonable belief therein.

10 19. NCO denies the allegations contained in ¶ 19 for lack of sufficient information to
11 justify a reasonable belief therein.

12 20. NCO denies the allegations contained in ¶ 20 for lack of sufficient information to
13 justify a reasonable belief therein.

14 21. NCO denies the allegations contained in ¶ 21 for lack of sufficient information to
15 justify a reasonable belief therein.

16 22. NCO admits with respect to ¶ 22 that Plaintiff incurred medical debt from the
17 University of Washington Medical Center; NCO denies the remaining allegations of ¶ 22 for lack
18 sufficient information to justify a reasonable belief therein.

19 23. NCO admits the allegations contained in ¶ 23.

20 24. NCO admits the allegations contained in ¶ 24.

21 25. NCO admits the allegations contained in ¶ 25.

22 26. NCO denies the allegations contained in ¶ 26 for lack of sufficient information to
justify a reasonable belief therein.

 27. NCO denies the allegations contained in ¶ 27 for lack of sufficient information to
justify a reasonable belief therein.

1 28. NCO denies the allegations contained in ¶ 28.

2 29. NCO denies the allegations contained in ¶ 29.

3 30. NCO denies the allegations contained in ¶ 30.

4 31. NCO denies the allegations contained in ¶ 31 for lack of sufficient information to
5 justify a reasonable belief therein.

6 32. NCO denies the allegations contained in ¶ 32 for lack of sufficient information to
7 justify a reasonable belief therein.

8 33. NCO denies the allegations contained in ¶ 33 for lack of sufficient information to
9 justify a reasonable belief therein.

10 34. NCO denies the allegations contained in ¶ 34 for lack of sufficient information to
11 justify a reasonable belief therein.

12 35. NCO denies the allegations contained in ¶ 35.

13 **FIRST CAUSE OF ACTION**

14 **Alleged Violations of the FDCPA**

15 **15 U.S.C. § 1692 *et seq.***

16 36. In response to ¶ 36, NCO incorporates by reference its responses to ¶¶ 1 through
17 35 above. Except as expressly admitted in such responses, NCO denies the allegations of ¶ 36
18 and each and every paragraph referenced therein.

19 37. NCO denies the allegations contained in ¶ 37.

20 38. NCO denies the allegations contained in ¶ 38.

21 **SECOND CAUSE OF ACTION**

22 **Alleged Violations of the CAA**

RCW §§ 19.16 *et seq.*

39. In response to ¶ 39, NCO incorporates by reference its responses to ¶¶ 1 through
38 above. Except as expressly admitted in such responses, NCO denies the allegations of ¶ 39

and each and every paragraph referenced therein.

40. NCO denies the allegations contained in ¶ 40.

41. NCO denies the allegations contained in ¶ 41.

THIRD CAUSE OF ACTION

Alleged Violations of the TCPA

47 U.S.C. §§ 227 *et seq.*

42. In response to ¶ 42, NCO incorporates by reference its responses to ¶¶ 1 through 41 above. Except as expressly admitted in such responses, NCO denies the allegations of ¶ 42 and each and every paragraph referenced therein.

43. NCO denies the allegations contained in ¶ 43.

44. NCO denies the allegations contained in ¶ 44.

45. NCO denies the allegations contained in ¶ 45.

46. NCO denies the allegations contained in ¶ 46.

47. NCO denies the allegations contained in ¶ 47.

48. NCO denies the allegations contained in ¶ 48.

49. NCO denies the allegations contained in ¶ 49.

FOURTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

50. In response to ¶ 50, NCO incorporates by reference its responses to ¶¶ 1 through 49 above. Except as expressly admitted in such responses, NCO denies the allegations of ¶ 50 and each and every paragraph referenced therein.

51. NCO denies the allegations contained in ¶ 51.

52. NCO denies the allegations contained in ¶ 52.

53. NCO denies the allegations contained in ¶ 53.

1 **PRAYER FOR RELIEF**

2 NCO denies that Plaintiff is entitled to the relief sought.

3 AND NOW, further answering the Complaint, NCO avers:

4 **FIRST AFFIRMATIVE DEFENSE**

5 One or more of the counts/grounds in Plaintiff's Complaint fails to state a claim against
6 NCO upon which relief can be granted.

7 **SECOND AFFIRMATIVE DEFENSE**

8 NCO alleges that at all times described in the Complaint, Plaintiff consented to any and
9 all conduct alleged therein.

10 **THIRD AFFIRMATIVE DEFENSE**

11 Pursuant to 15 U.S.C. § 1629k(c), to the extent that a violation(s) is established, any such
12 violation(s) was not intentional and resulted from a *bona fide* error notwithstanding the
13 maintenance of procedures reasonably adapted to avoid any such error.

14 **FOURTH AFFIRMATIVE DEFENSE**

15 Any harm suffered by Plaintiff was legally and proximately caused by persons,
16 individuals, corporations, or entities beyond the control or supervision of NCO, or for whom
17 NCO is not responsible or liable.

18 **FIFTH AFFIRMATIVE DEFENSE**

19 Plaintiff knowingly and voluntarily waived her rights to obtain any or all of the relief
20 sought in the complaint.

21 **SIXTH AFFIRMATIVE DEFENSE**

22 NCO alleges that, assuming plaintiffs suffered any damages, which is denied, Plaintiff
failed to mitigate her damages or take other reasonable steps to avoid or reduce her damages.

SEVENTH AFFIRMATIVE DEFENSE

NCO alleges one or more of the calls was made by equipment that did not have the
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1 capacity to store or produce telephone numbers to be called using a random or sequential
2 number generator and to dial such numbers; one or more of the calls was made without using
3 an artificial or prerecorded voice.

4 NCO reserves the right to assert additional affirmative defenses at such time and to such
5 extent as warranted by discovery and factual developments in the case.

6 WHEREFORE, Defendant NCO prays that this action be dismissed with prejudice and at
7 Plaintiff's costs, and further that NCO be awarded its costs and attorney's fees and any other
8 appropriate relief.

9 DATED this 8th day of May, 2014.

10 ANDREWS ▪ SKINNER, P.S.

11 By/s/Pamela M. Andrews

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16 Attorney for Defendant NCO Financial Systems,
17 Inc.
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CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

By/s/Pamela M. Andrews

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